



Costs Decision

Hearing held on 18 January 2022

Site visit made on 19 January 2022

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 8th February 2022

Costs application in relation to Appeal Ref: APP/C1570/W/21/3266547 Homely, The Street, High Easter CM1 4QW

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr & Mrs Bright for a full award of costs against Uttlesford District Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for development originally described as "erection of a new dwelling house with associated parking and landscaping".
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Decision

1. The application for an award of costs is refused.

The submissions and responses by the parties

2. The applicants' case and the Council's response were made in writing prior to the hearing. At the hearing, the applicants added further points to their application, the Council responded, and the applicants replied to that response. Details of the oral submissions and responses are set out in the annex at the end of this decision.

Reasons

3. The Planning Practice Guidance (PPG) advises that irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The PPG states that awards against a local planning authority may be procedural, relating to the appeal process, or substantive, relating to the planning merits of the appeal.
4. The applicants submit that the Council behaved unreasonably by refusing the application at planning committee contrary to officer advice and failing to substantiate the reason for refusal.
5. The applicants note that they were advised to withdraw an earlier application by officers on the basis of pursuing a more bespoke and less pastiche dwelling design. However, officer advice at both the pre-application and application stage is not binding on any decision-maker and planning committees are entitled to come to a different view provided this can be substantiated.
6. The reason for refusal simply refers to the development causing material harm to the street scene and not preserving or enhancing the character or appearance of the conservation area. In terms of substantiating this reason,

the Council's appeal statement outlined the concerns regarding the size and prominence of the replacement dwelling and its design not being in keeping with the area. The statement also noted that the loss of the non-designated heritage asset and the design of the replacement dwelling would not preserve or enhance the conservation area. The Council made similar points at the hearing.

7. While the Council's evidence before and during the hearing was brief and lacking in detail, it was sufficient to understand the concerns regarding the conservation area effects. Although my appeal decision found the design of the replacement dwelling to be acceptable, I am satisfied that the Council substantiated the reason for refusal. While the Council's representative at the hearing was unable to come to a view on whether the harm to the conservation area was substantial or less than substantial, this did not prevent me from reaching my own conclusion on the evidence before me.
8. I am not persuaded by the applicants' claim that committee members were biased against the development on the basis of the loss of the non-designated heritage asset or were trying to find other reasons for refusal such as highway safety. Discussions at committees can be wide-ranging and explore many different issues before reaching a decision. In any event, it will be seen from my appeal decision that I shared the committee's concern about the loss of the non-designated heritage asset and its effect on the conservation area. It was a legitimate and relevant concern for the committee and interested parties to raise.
9. In conclusion, the Council has not prevented or delayed development which should clearly be permitted or failed to produce evidence to substantiate the reason for refusal. No unreasonable behaviour leading to unnecessary or wasted expense in the appeal process has been demonstrated. Therefore, no award of costs is made.

Tom Gilbert-Wooldridge

INSPECTOR

Annex: Submissions and Responses made orally at the hearing

Applicants' further points on its costs application

Based on the hearing today, the Council's submissions do not stand up to scrutiny. Professional advice was clear and the appeal was avoidable. Pre-application advice is not binding, but the same advice was reflected in the response of consultees to the application (namely the conservation adviser)

In terms of evidence submitted by the Council, there is only paragraph 2.6 in its appeal statement. There has been no factual or published evidence to substantiate its position. The Council was unable to form an opinion on the level of harm to the conservation area at the hearing.

Council's response to the further points

The reason for refusal is complete, precise and specific to the site and conservation area and states the relevant policies and legislation. The Council has not acted unreasonably or wasted expense at appeal. It was not unreasonable to go against pre-application advice as it is not binding.

The case put forward by the Council regarding the level of harm was due to the complete demolition of the locally listed building. This is a very relevant issue but not contained in the decision notice.

The arguments put forward by the Council are sufficient to demonstrate harm.

Applicants' comments on the Council's response

The advice in the PPG regarding substantive awards of costs include the failure to substantiate a reason for refusal at appeal. The Council stated its opinions at the hearing but no clearly referenced material or evidence was presented.